

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE  
JULY 15, 2008**

**ITEM 5**

**SUBJECT**

CONSIDERATION OF A RESOLUTION ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS REGARDING THE SALINAS VALLEY INTEGRATED REGIONAL WATER MANAGEMENT (IRWM) IMPLEMENTATION GRANT PROJECT

**DISCUSSION**

The California voters approved the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50), in November 2002 (Stats. 2003, ch. 493). It amended the California Water Code to add, among other articles, §79560 et seq., authorizing the Legislature to appropriate funding for IRWM projects. The intent of the IRWM Grant Program is to provide funding via competitive grants for projects to protect communities from drought, protect, improve water quality, and improve local water security by reducing dependence on imported water, while encouraging water management on a regional level.

Proposition 50 authorizes approximately \$360 Million to implement these projects. The IRWM Grant Program is administered jointly by the State Water Resources Control Board (State Water Board) and the Department of Water Resources (DWR). The IRWM Implementation Grant Program Guidelines were adopted by the State Water Board and approved by DWR in November 2004. On March 20, 2007, the State Water Board adopted an IRWM Implementation Grant Funding List with grants totaling \$75 Million ([Resolution 2007-0011](#)) and DWR approved an IRWM Implementation Grant Funding List with grants totaling \$57 Million.

Component 2 is part of the larger Salinas Valley IRWM (SVIRWM) Project that was awarded funds by the State Water Board under the IRWM Grant Program. Component 2 was approved for \$5,593,750 of the \$12.5 Million awarded to the SVIRWM Project.

The SVIRWM Project will provide funds to assist in financing the construction of Component 2, including constructing a diversion structure (Item 2.1.1) and modifying the existing Nacimiento Dam spillway (Item 2.1.2). An ongoing imbalance between the rate of groundwater withdrawal and recharge results in overdraft conditions in the Salinas Valley Basin, allowing seawater from Monterey Bay to intrude inland into two aquifers. To halt further groundwater degradation and prevent seawater from moving further inland, the Monterey County Water Resources Agency (Agency) proposes to balance groundwater pumping and recharge by changes in operation of the Nacimiento and San Antonio Reservoirs. They propose to shift winter water releases into the summer and to use a diversion structure to deliver water to some coastal areas, in lieu of pumping. This would enable the Agency to make more water available for groundwater recharge during the peak irrigation season and reduce seawater intrusion. The State Water Board has not previously made findings regarding Component 2 pursuant to the California Environmental Quality Act (CEQA).

The Agency and the U.S. Army Corps of Engineers (USACE) prepared a joint Environmental Impact Report/Environmental Impact Statement (EIR/EIS) that addresses Component 2. The Agency is the lead agency under CEQA, while USACE is the National Environmental Policy Act lead agency. The EIR/EIS was circulated to the public and distributed through the State Clearinghouse (State Clearinghouse No. 2000034007) for review from June 8, 2001, through August 7, 2001. The Agency received a total of 163 comment letters, including comment letters from four Federal agencies, four State agencies, twenty local agencies and several organizations, private companies and individuals. Summaries of specific comments are listed below:

1. U.S. Department of the Interior, Office of Environmental Policy and Compliance (USDO I) provided comments regarding inadequacies of the draft EIR/EIS in addressing issues related to federal endangered and threatened species, a recommendation to conduct further studies on California red-legged frog (*Rana aurora draytonii*), California tiger salamander (*Ambystoma californiense*) and other aquatic species. They expressed concerns that the Agency determined the Salinas River Watershed was an unsuitable habitat for California red-legged frog and recommended an assessment of Component 2's effects to Least Bell's vireo (*Vireo bellii pusillus*), bald eagle (*Haliaeetus leucocephalus*), and tidewater goby (*Eucyclogobius newberryi*). USDO I also provided edits to the draft EIR/EIS and requested an assessment of effects from increased water levels in the Nacimiento and San Antonio reservoirs, enhanced erosion on aquatic life and recreation, frequency of reservoir capacity levels, water releases during storm events and modifications to the Salinas river channel;
2. U.S. Environmental Protection Agency provided comments regarding concerns with the narrow scope of alternatives analyzed in the draft EIR/EIS. They expressed concerns on the impacts to riparian habitat, endangered steelhead salmon, basin hydrology, recreation and energy, and potential growth-inducing effects;
3. U.S. Department of Commerce, National Marine Fisheries Service (NMFS) provided comments regarding concerns from water quality impacts and removal of riparian zone habitat. They requested the Agency incorporate mitigation measures for steelhead populations;
4. U.S. Department of Commerce, National Oceanic, and Atmospheric Administration provided comments regarding potential increased predation and flow impacts on federally endangered South-Central California Coast steelhead (*Oncorhynchus mykiss*) and steelhead migration. They recommended that fish screens meet NMFS guidelines and to conduct an assessment of flow data and smolt out-migration;
5. Central Coast Regional Water Quality Control Board (Central Coast Regional Water Board) provided comments regarding a clarification on existing and future water conditions, water sufficiency, and long-term mitigation for continual seawater intrusion. They expressed concerns that Component 2 may increase flooding downstream and result in potential sediment accumulation behind the proposed seasonal diversion structure. They also advised the Agency to modify existing permits for Total Maximum Daily Load provisions and recommendations;

6. State Water Board, Division of Water Rights provided comments regarding a petition requirement to add a proposed surface diversion facility to the Agency's existing water rights permit and a request to address impacts to migrating juvenile steelhead;
7. California Department of Health Services provided comments regarding significant and unavoidable impacts from implementing Alternative B and requested the Agency to comprehensively address actual and potential impacts from subsurface, stored treated wastewater on the groundwater basin and to provide a discussion on all aquifers within the area. They also expressed concerns on degradation of groundwater quality and recommended the Agency review the draft Groundwater Recharge Reuse Regulations;
8. California Department of Conservation, Office of Governmental and Environmental Relations provided comments regarding a need to discuss impacts to agricultural land at the Merritt Lake site, and to discuss impacts and future plans for public acquisition of lands under Williamson Act contract;
9. San Luis Obispo County, Department of Planning and Building provided comments regarding a depiction of actual and theoretical lake levels and to address impacts on lake levels, water allocation reliability, spillway modifications and traffic impacts on Lake Nacimiento Drive;
10. Monterey Bay Unified Air Pollution Control District provided comments regarding a need to distinguish between federal conformity requirements and thresholds of significance, and a recommendation to conduct a risk assessment of toxic air contaminants from the back-up generator; and,
11. Other comments: Several comments questioned the need for Component 2, the reliability of basic assumptions about project alternatives evaluated in the draft EIR/EIS, the assessment methods used to evaluate those alternatives and the extent water-use controls are being employed to meet Component 2 objectives. Many comments questioned the degree to which mitigation measures were considered, adequacy of Component 2 models, alternative analyses and other analyses that did not consider the reduction of pumping in a focused area. Some comments also recommended measures to reduce recreational-related impacts and requested more information on growth-inducing impacts, land use controls and other regulatory measures to help minimize future growth impacts. A few comments also requested the Agency include additional water conservation measures into the preferred alternative and to address detrimental effects from reservoir releases on fish biology and riparian habitat losses under Alternative A.

The Agency responded to all comments, provided clarifications and revised the draft EIR/EIS as appropriate, and included these responses in the final EIR/EIS. The Agency responded to the concerns from the Central Coast Regional Water Board and no issues were raised. The Agency is currently working with the State Water Board's Division of Water Rights to amend two licenses and to update their water rights permit. The Agency certified the final EIR/EIS, adopted the Mitigation Monitoring Plan (MMP) and Statements of Overriding Considerations (SOC), and approved Component 2 on June 4, 2002. The Agency filed a Notice of Determination (NOD) with the Monterey and San Luis Obispo County Clerks on June 5, 2002.

In 2007, the Agency prepared an Addendum EIR to address project modifications as a result of the Section 7 consultation under the Endangered Species Act with NMFS. As a result of this consultation, the Agency agreed to modify instream flow targets for steelhead by including a complex regimen of new release requirements for smolt, juvenile and adult steelhead during Nacimiento and San Antonio reservoir operations. The Agency also amended the MMP to include conservation measures for the federally threatened California tiger salamander and mitigation measures to protect avian species. The Agency adopted the Addendum EIR and the amended MMP on July 31, 2007. The Agency filed an NOD with the Governor's Office of Planning and Research on July 31, 2007, the Monterey County Clerk on August 1, 2007 and the San Luis Obispo County Clerk on August 2, 2007. On October 25, 2007, the USACE adopted the EIR/EIS with the Addendum EIR, approved Component 2, and filed a Record of Decision with the Federal Register.

State Water Board staff reviewed and considered the EIR/EIS, the Addendum EIR, the MMPs, the SOC, and the Salinas Valley Integrated Regional Water Management Program Workplan and associated environmental documents. Based on this review, State Water Board staff determined that Component 2 will improve existing water quality conditions.

The proposed Component 2 implements Items 2.1.1 and 2.1.2 of the Grant Agreement. Item 2.1.1 involves constructing the Salinas River Diversion Facility on the Salinas River to temporarily store and divert water during dry periods. Item 2.1.2 involves modifying the existing Nacimiento Dam to handle a maximum probable flood event. Specifically, these tasks involve:

1. Salinas River Diversion Facility (Item 2.1.1): installing a diversion structure on the Salinas River near the City of Marina. The diversion structure would involve constructing an inflatable diversion dam, fish way facilities (intake screen, bypass and fish ladder), river intake and pump station, transmission pipeline, control facilities and potential water treatment facilities; and,
2. Nacimiento Dam Spillway Modifications (Item 2.1.2): enlarging the spillway at Nacimiento Dam by lowering the spillway crest, installing an inflatable rubber dam, and raising downstream spillway chute sidewalls.

The Agency adopted an SOC to substantiate its decision to approve Component 2 despite significant and unavoidable impacts to the areas of 1) Fish Biology (warmwater sport fish reproduction and habitat effects), 2) visual resources (San Antonio and Nacimiento reservoirs aesthetic value effects), 3) recreation (recreation and sport fishing effects at San Antonio and Nacimiento reservoirs), and 4) air quality (construction emission exceedances). State Water Board staff finds that the following specific economic, social, technological, and environmental benefits of Component 2 outweigh these unavoidable adverse environmental impacts:

- a. Component 2 will assist the Agency in protecting the region's water resources and making it safe for urban and agricultural users;
- b. Approval of Component 2 will allow the Agency to reduce seawater intrusion in the Salinas River Basin;

- c. Construction of Component 2 will help the local economy by allowing continual agriculture practices, which depend on groundwater supplies; and
- d. The warmwater sport fish reproduction and habitat effects, recreation and sport fishing impacts, aesthetic value effects, and construction emission exceedances are necessary for the Agency to achieve the above objectives.

**POLICY ISSUES**

Should the State Water Board:

Adopt a Statement of Overriding Considerations regarding the Salinas Valley IRWM Implementation Grant Component 2?

**FISCAL IMPACT**

None

**REGIONAL WATER BOARD IMPACT**

None

**STAFF RECOMMENDATIONS**

That the State Water Board:

Adopts a Statement of Overriding Considerations regarding the Salinas Valley IRWM Project Component 2.

# DRAFT

## STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2008-

### ADOPT A STATEMENT OF OVERRIDING CONSIDERATIONS REGARDING THE SALINAS VALLEY INTEGRATED REGIONAL WATER MANAGEMENT IMPLEMENTATION (IRWM) GRANT PROJECT

#### WHEREAS:

1. The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50), authorizes approximately \$360 Million to implement projects that protect communities from drought, protect and improve water quality, and improve local water security by reducing dependence on imported water while encouraging water management on a regional basis;
2. The IRWM Grant Program is administered jointly by the State Water Resources Control Board (State Water Board) and the Department of Water Resources (DWR);
3. The IRWM Program Guidelines were adopted by the State Water Board and approved by DWR in November 2004;
4. On March 20, 2007, the State Water Board adopted an IRWM Implementation Grant Funding List with grants totaling \$75 Million ([Resolution No. 2007-0011](#));
5. In March 2007, DWR adopted an IRWM Implementation Grant Funding List with grants totaling \$57 Million;
6. The Salinas Valley IRWM Component 2 was on the March 20, 2007, IRWM Implementation Grant Funding List approved for funding by the State Water Board;
7. Component 2 is part of the Salinas Valley IRWM Project;
8. The Monterey County Water Resources Agency (Agency) and the U.S. Army Corps of Engineers (USACE) prepared a joint Environmental Impact Report/Environmental Impact Statement (EIR/EIS) that addresses Component 2 (State Clearinghouse No. 2000034007);
9. The Agency certified the final EIR/EIS, adopted the Mitigation Monitoring Plan (MMP) and Statements of Overriding Considerations, and approved Component 2 on June 4, 2002;
10. The Agency filed a Notice of Determination (NOD) with the Monterey and San Luis Obispo County Clerks on June 5, 2002;

## DRAFT

11. The Agency prepared an Addendum EIR to address project modifications as a result of the Section 7 consultation under the Endangered Species Act with the U.S. Department of Commerce, National Marine Fisheries Service and amended the MMP to include conservation measures for the federally threatened California tiger salamander and mitigation measures to protect avian species;
12. The Agency adopted the Addendum EIR and the amended MMP on July 31, 2007;
13. The Agency filed an NOD for the Addendum EIR with the Governor's Office of Planning and Research on July 31, 2007, the Monterey County Clerk on August 1, 2007 and the San Luis Obispo County Clerk on August 2, 2007;
14. On October 25, 2007, the USACE adopted the EIR/EIS, approved Component 2 and filed a Record of Decision with the Federal Register;
15. The Agency adopted a Statement of Overriding Considerations to substantiate its decision to approve Component 2 despite significant and unavoidable impacts to the areas of 1) Fish Biology (recreational warmwater sportfish reproduction and habitat effects), 2) visual resources (San Antonio and Nacimiento reservoirs aesthetic value effects), 3) recreation (recreation and sport fishing effects at San Antonio and Nacimiento reservoirs), and 4) air quality (construction emission exceedances);
16. The State Water Board has not previously made findings regarding Component 2 of the Salinas Valley IRWM Implementation Grant pursuant to the California Environmental Quality Act;
17. The State Water Board finds that the following specific economic, social, technological, and environmental benefits of Component 2 outweigh these unavoidable adverse environmental impacts:
  - a. Component 2 will assist the Agency in protecting the region's water resources and making it safe for urban and agricultural users;
  - b. Approval of Component 2 will allow the Agency to reduce seawater intrusion in the Salinas River Basin;
  - c. Construction of Component 2 will help the local economy by allowing continual agriculture practices, which depend on groundwater supplies; and
  - d. The warmwater sport fish reproduction and habitat effects, recreation and sport fishing impacts, aesthetic value effects, and construction emission exceedances are necessary for the Agency to achieve Component 2 objectives.
18. State Water Board staff has reviewed and considered the environmental documents and has determined that Component 2 will improve existing water quality conditions.

**D R A F T**

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

Adopts a Statement of Overriding Considerations regarding the Salinas Valley IRWM Implementation Grant Component 2.

**CERTIFICATION**

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on July 15, 2008.

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Jeanine Townsend  
Clerk to the Board